

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|-------------------------|---|------------------------------------|
| MITCHELL ALLEN EUBANKS, |) | |
| |) | Civil Action No. 3:24-cv-01935-MGL |
| Plaintiff, |) | |
| |) | |
| -vs- |) | |
| |) | <u>COMPLAINT</u> |
| LAND OF SKY, LLC, |) | (Tort-Motor Vehicle Crash) |
| |) | (Jury Trial Requested) |
| Defendant. |) | |
| _____ |) | |

TO: THE ABOVE-NAMED DEFENDANT AND DEFENDANT ATTORNEY(S):

The Plaintiff above named complaining of the Defendant herein says as follows:

1. That substantial acts and omissions alleged herein occurred in Lexington County, South Carolina, in a motor vehicle crash on I-26 near West Columbia.
2. That Land of Sky, LLC (hereinafter "Defendant") is a corporation established in and doing business out of North Carolina.
3. That Mitchell Allen Eubanks (hereinafter "Plaintiff") is a citizen and resident of Laurens County, South Carolina.
4. That the amount in controversy exceeds \$75,000.00.
5. That jurisdiction in this Court is proper on the grounds of diversity jurisdiction with an amount in controversy exceeding \$75,000.00.
6. That on or about July 1, 2021, at approximately 6:00 p.m. on I-26 westbound between Sunset Boulevard and Leaphart Road, Plaintiff was driving a 2017 Ford pickup truck in the left-most of three westbound lanes.
7. That on or about the same time and place, Defendant's 2020 18-wheel Kenworth tractor trailer was traveling behind Plaintiff in the same left-most lane of travel westbound.

8. That Plaintiff came to a stop behind a line of stopped vehicles in front of him and, while at rest, Defendant's driver slammed into the back of Plaintiff's truck knocking Plaintiff unconscious and pushing his truck to the right across two lanes of traffic and to rest on the right shoulder.

9. That Plaintiff's vehicle had an onboard camera that recorded both the POV of the Plaintiff and the POV looking into the cab of Plaintiff's truck watching the Defendant's truck approach and Plaintiff becoming unconscious as Plaintiff was struck in the back of the head by the b-pillar of his truck from the impact.

10. That Defendant's driver was at all times alleged herein acting within the course and scope of his employment as an agent of Defendant either as a direct employee or a statutory employee subcontractor.

11. That at all times alleged herein, Defendant was responsible for the acts and omissions of its agent driver.

12. That Defendant's agent driver was negligent, negligent per se, grossly negligent, and reckless in failing to exercise due care, driving too fast for conditions (rain and congested traffic), failure to keep a proper lookout, distracted driving, driving while fatigued, and failure to properly maintain the vehicle.

13. That Defendant was negligent and grossly negligent in failing to exercise due care in the hiring, training, retention and supervision of Defendant's agent driver.

14. That the acts and omissions of Defendant and its agent driver alleged herein are the direct and proximate cause of harms and losses suffered by the Plaintiff, to include traumatic injury to his neck and shoulder resulting in medical costs and surgery with permanent impairment.

15. That Plaintiff seeks actual and punitive damages from Defendant on these causes of action and other relief this Court deems appropriate.

WHEREFORE, Plaintiffs prays for judgment against Defendants on claims of negligence, gross negligence, carelessness, recklessness, negligence *per se*, and willfulness in

such sum of actual and punitive damages, jointly and severally, that a trier of fact may determine together with such other relief this Court may deem just and proper.

GEORGE SINK, P.A. INJURY LAWYERS

s/Robert E. Treacy, Jr.

Robert E. Treacy, Jr.

SC Bar#12102 and US District Court Bar #07458

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North Charleston, SC
April 10, 2024